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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

CITIZENS FOR CLEAN ENERGY, *et al.*,
Plaintiffs,

v.

U.S. DEPARTMENT OF THE
INTERIOR, *et al.*,
Defendants,

and

STATE OF WYOMING, *et al.*,
Intervenor – Defendants.

STATE OF CALIFORNIA, *et al.*,
Plaintiffs,

v.

U.S. DEPARTMENT OF THE
INTERIOR, *et al.*,
Defendants,

and

STATE OF WYOMING, *et al.*,
Intervenor – Defendants.

Case No. 4:17-cv-00030-BMM (lead)

Case No. 4:17-cv-00042-BMM
[Consolidated Case]

**INTERVENOR-DEFENDANTS STATE
OF WYOMING AND STATE OF
MONTANA'S CROSS-MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, Intervenor-Defendants the State of Wyoming (Wyoming) and the State of Montana (Montana), by and through undersigned counsel, respectfully cross move for summary judgment on all claims raised by Citizens for Clean Energy, ecoCheyenne, Montana Environmental Information Center, Center for Biological Diversity, Defenders of Wildlife, Sierra Club, WildEarth Guardians, and the Northern Cheyenne Tribe (Conservation Plaintiffs) and the States of California, New Mexico, New York, and Washington (State Plaintiffs).

Conservation Plaintiffs and State Plaintiffs brought their actions under the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA) to challenge the environmental analysis supporting the Zinke Order. (*See* ECF No. 176 at 4; ECF No. 173-2 at 4). Cases involving the review of a final agency action under the APA do not require fact finding on behalf of this Court. *Nw. Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18 F.3d 1468, 1471-72 (9th Cir. 1994). This Court determined that this case involves the review of a final agency action resting on the Bureau's administrative record. (*See* ECF No. 141). Accordingly, this Court excused the Parties from preliminary pretrial and discovery procedures, unless otherwise ordered. (ECF No. 193).

Also pending before this Court is Intervenor-Defendant National Mining Association's motion to dismiss for mootness. (ECF No. 210). Wyoming and Montana concur with National Mining Association and Federal Defendants that this case is moot because the challenged action, the Zinke Order, was revoked by Secretary Deb Haaland on April 16, 2021. (*See* ECF No. 222). Therefore, this Court lacks jurisdiction to provide Conservation Plaintiffs and State Plaintiffs with any meaningful relief. (*See Id.*).

Should this Court proceed to the merits, Wyoming and Montana, for the reasons set forth in their accompanying memorandum, request that this Court deny the Conservation Plaintiffs and State Plaintiffs' motions for summary judgment, grant Wyoming and Montana's cross motion for summary judgment, and affirm the Bureau's environmental analysis accompanying the Zinke Order.

Dated this 27th day of January 27, 2022.

/s/ Travis Jordan

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing is being filed with the Clerk of the Court using the CM/ECF system, thereby serving it on all parties of record on this 27th day of January, 2022.

/s/ Travis Jordan
Travis Jordan